REMARKS/ARGUMENT

The Examiner is thanked for the careful review of this application. Claims 1-26 are pending in the application.

Applicant is filing this response within two months of the date of mailing of the Final Office Action in conformance with MPEP Section 714.13. A response in accordance with this section is kindly requested.

Rejections under 35 USC §102

Claims 1-26 were rejected under 35 U.S.C. §102(e) as being anticipated by McMurdie et al. (U.S. Patent No. 6,401,169). This rejection is respectfully traversed, and Applicant requests reconsideration.

McMurdie et al. teach a method for handling buffer under-runs during the recording of files to an optical disc. The McMurdie et al. method includes reserving a track for recording a file system associated with recording of one or more files to the optical disc. The one or more files are recorded to the optical disc in a track that logically follows the reserved track. In case of a buffer under-run, a current track is closed, a gap recorded, and recording resumed in a new track following the gap. Path tables and directory descriptors of the file system are written after the recording of the one or more files, and a volume descriptor sequence of the file system is recorded in the reserved track after recording the path tables and the directory descriptors.

In independent claim 1 of the present invention, Applicant claims a method for processing data to be recorded on an optical disc. The method includes examining a set of files selected to be recorded on the optical disc, and creating a record data structure for each file in the set of files to be recorded on the optical disc. A set of pointers is generated to associate the record data structures with a writing order, and each of the record data structures is processed one after another in the writing order to produce ordering data structures for each file in the set of files. The ordering data structures are processed to write the set of files onto the optical disc in the writing order.

In independent claim 9 of the present invention, Applicant claims a method for recording data onto an optical disc. The method includes generating a set of pointers to associate record data structures with a writing order, and processing each of the record data structures one after another in the writing order to produce ordering data structures for each file in a set of files. The ordering data structures are processed to write the set of files onto the optical disc in the writing order.

Finally, in independent claim 19 of the present invention, Applicant claims a computer readable media having program instructions for recording data onto an optical disc. The computer readable media includes program instructions for examining a set of files selected to be recorded on the optical disc, and for creating a record data structure for each file in the set of files to be recorded on the optical disc. Program instructions are also included for generating a set of pointers to associate record data structures with a writing order, as well as for processing each of the record data structures one after another in the writing order to produce ordering data structures for each file in a set of files. Program instructions then provide for processing the ordering data structures to write the set of files onto the optical disc in the writing order.

The current rejections are identical to those entered in Paper No. 6 of September 16, 2002. In response to Applicant's Amendment and Response submitted on January 9, 2003, the Office asserts that Applicant argues that which is not claimed, and that should Applicant claim elements of the data structure along with the current limitations, Examiner would be amenable to those changes. Applicant respectfully submits that by claiming the features, the elements are in fact claimed. As described below, the features Applicant claims are defined in Applicant's specification, and neither the features nor the elements thereof are disclosed by McMurdie et al., a disclosure and patent with which Applicant is very familiar, being a co-inventor of the McMurdie et al. patent, the patent being assigned to the same assignee as the instant application, and the disclosure having been prepared, filed, and prosecuted by the same counsel as that of Applicant for the instant application.

In order for a reference to anticipate a claim, each and every element as set forth in the claim must be found in the reference, either expressly or inherently described.

MPEP 2131. Applicant respectfully submits that McMurdie et al. do not anticipate Applicant's independent claims 1, 9, or 19.

As Applicant pointed out in the previous Amendment/Response filed on January 9, 2003, the presently claimed features are focused on, take place in, or are otherwise related to the processing of data ***on a host computer or system***. Applicant's claims recite methods and computer readable media for the processing of data selected to be recorded to an optical media. Applicant further submits that one skilled in the art would recognize the methods and computer readable media claimed are focused on the host computer or system processing. Conversely, the McMurdie et al. reference describes the formatting and/or structuring of a destination optical media, processes and procedures which are essentially inapplicable to the Applicant's claimed invention.

Applicant has claimed, by way of example, creating a record data structure for each file to be recorded on the optical disc. A record data structure is a structure that is disclosed and described in the descriptive portion of Applicant's specification, and illustrated in Figure 2B. In the processing of data for recording to an optical media, "the record data structures are processed to generate an ordering data structure that will be passed on to the CD recording engine" (see Applicant's specification at page 12, lines 20-21). Applicant has claimed a record data structure in each of independent claims 1, 9, and 19. McMurdie et al. on the other hand, in teaching the formatting and/or structuring of a destination optical media, do not describe, refer to, suggest, or otherwise disclose a record data structure. A record data structure is not applicable to the formatting or structure of the destination optical media. This isn't to say that the McMurdie et al. *couldn't* disclose or describe the processing by the host system in addition to the formatting and/or structure of the destination optical media, but Applicant respectfully submits that McMurdie et al. ***do not*** describe, suggest, or otherwise disclose host processing as claimed by Applicant. Specifically, McMurdie et al. do not describe record data structures.

Applicant further points to the feature "generating a set of pointers to associate the record data structures with a writing order." The feature is recited in each of independent claims 1, 9, and 19. The record data structures are dynamically arranged in a

writing order through the use of pointers which is a process and feature that is associated with the processing of data to be written to a destination optical media. Conversely, McMurdie et al., teaching the structure and/or formatting of the destination optical media do not teach pointers to associate record data structures with a writing order as McMurdie et al. does not teach record data structures, and does not teach or address the specific order of writing data files. The only order described by McMurdie et al. is reserving sectors of a track on the destination optical media, writing the destination optical media file system after the data is written, and the like. McMurdie et al. isn't concerned with how the selected data is processed in preparation for writing to a destination optical media, but rather with the structure and/or formatting of any data written to the destination optical media ***on the destination optical media.***

Yet another feature claimed by Applicant is the processing the ordering data structures to write the set of files onto the optical disc in the writing order. The feature *is* ***recited in each of Applicant's independent claims 1, 9, and 19.*** As described above, McMurdie et al. isn't concerned with, and therefore does not teach, a writing order for the data written on the optical media. McMurdie et al. simply writes "data" and does not teach, or suggest, a selection of files in a particular writing order. The "order" which is taught by McMurdie et al. includes whether the data is written before or after the file system for the destination optical media, whether a pre-gap or post-gap is written before or after a buffer underrun, whether a VDS (a file system structure) is written before or after the data is written to the destination optical media, and so forth. As stated above, McMurdie et al. is not concerned with, and does not teach, processing that may or may not occur on the host system of the data. McMurdie et al. therefore does not teach host system processes, methods, or the features as claimed by Applicant in the present application.

Similarly, the feature of "processing each of the record data structures one after another in the writing order to produce ordering data structures for each file in the set of files" as recited in Applicant's independent claims, designating data files to be written to system cache memory, verifying that the record data structures accurately define each of the set of files, passing the ordering data structures to a CD recording engine, and so forth

as recited in Applicant's dependent claims, are all features describing and associated with the processing of data files by a host computer or system in preparation for writing to a destination optical media. McMurdie et al., teaching the formatting and/or structuring of data, file systems, etc., of a destination optical media, is not concerned with and does not teach or describe host processing. McMurdie et al. therefore do not teach any of the cited, and claimed, features.

As stated above, Applicant's independent claims 1, 9, and 19 are anticipated only if each and every element as set forth in the claims are found in the reference. Applicant respectfully submits that the McMurdie et al. does not anticipate Applicant's independent claims 1, 9, or 19. Although the Office has cited a number of sections of the McMurdie et al. reference to support the asserted §102 rejection, Applicant has reviewed each of the Abstract, Figures 2A, 2B, 4, and 6A, and col. 1, lines 39-67, col. 3, lines 8-67, col. 4, lines 1-11, col. 5, lines 20-67, col. 6, lines 1-40, col. 7, lines 20-37, col. 8, lines 25-54, and col. 9, lines 1-18, and respectfully submits that McMurdie et al. do not anticipate Applicant's independent claims 1, 9, or 19. Likewise, Applicant's dependent claims 2-8, 10-18, and 20-26, each of which depends directly or indirectly from one of independent claims 1, 9, or 19, are not anticipated by the McMurdie et al. reference. Applicant has taken care to ensure the features argued are in fact the features recited in the claims. As stated above, McMurdie et al. teach and describe processes involved with formatting and structure on an optical media. In the instant application, Applicant has described and claimed the processes and features of host processing of data files on a host computer or system. The McMurdie et al. reference does not teach host processing, does not teach the features claimed by Applicant, and does not anticipate Applicant's claims. Applicant therefore respectfully requests reconsideration of the rejections, and that the §102 rejections be withdrawn.

In view of the foregoing, Applicants respectfully request reconsideration of claims 1-26. Applicants submit that all claims are in condition for allowance. Accordingly, a notice of allowance is respectfully requested. If Examiner has any questions concerning the present Amendment, the Examiner is kindly requested to contact the undersigned at (408) 749-6900, ext. 6905. If any additional fees are due in connection with filing this amendment, the Commissioner is also authorized to charge Deposit Account No. 50-0805 (Order No. Docket No. ROXIP120). A copy of the transmittal is enclosed for this purpose.

Respectfully submitted,
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